

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

DAVID FISHER, §
§
Plaintiff, § Case No. 1:17-cv-00382
v. §
§
PRIMERICA LIFE INSURANCE §
COMPANY AND ANTHONY §
WOODRUFF, §
§
Defendants. §

NOTICE OF REMOVAL

Defendant Primerica Life Insurance Company (“Primerica”) files this notice of removal and states:

1. **The Lawsuit.** Plaintiff David Fisher (“Plaintiff”) filed his Plaintiff’s Original Petition on August 7, 2017, in the 172nd Judicial District Court, Jefferson County, Texas, being numbered E-200489 (the “Petition”) on the docket of said court and being a suit to recover benefits under a life insurance policy (the “Policy”).
2. **Diversity Jurisdiction.** Complete diversity of citizenship exists between Plaintiff, on the one hand, and Primerica on the other hand, as they are citizens of different states. Plaintiff was a citizen of Texas at the time this action was filed and remains a citizen of Texas as of the date of this removal. Primerica is a Massachusetts corporation with its principal place of business in Georgia, both at the time this action was filed and as of the date of this removal. The amount in controversy exceeds \$75,000, as Plaintiff seeks “monetary relief of \$200,000 but not to exceed \$1,000,000.” (Petition ¶ 5.) The Court

thus has original jurisdiction over this action pursuant to 28 U.S.C. § 1332, and this action may be removed by Primerica pursuant to 28 U.S.C. § 1441. Venue is proper in this Court under 28 U.S.C. § 1391, as this action was pending in a state court within this district and division.

3. **Fraudulent Joinder of Woodruff.** The Court may disregard the citizenship of Woodruff, as he has been fraudulently joined by Plaintiff solely to prevent the removal of this action by defeating diversity of citizenship. Primerica was solely responsible for the decision to deny Plaintiff's claim, and the payment of any life insurance proceeds will come from Primerica. Moreover, Plaintiff's Petition does not contain any viable theory of liability against Woodruff that was a producing cause of damages to Plaintiff. Accordingly, the only reason that Woodruff was sued in this case was to prevent removal, and his citizenship should be disregarded. Additionally, Woodruff has not been served or appeared in this case.

4. **Removal is Timely.** Primerica was served on August 17, 2017, by certified mail. As such, this removal is timely under 28 U.S.C. § 1446(b).

5. **Local Rule 81 Requirements.** In accordance with Local Rule CV-81(c)(2), attached hereto as **Exhibit A** is an Index of State Court Matters, which contains true and correct copies of the state court docket sheet, all process, pleadings, or orders received or filed in this action as of the filing of this removal. Also attached hereto as **Exhibit B** are the items required by Local Rule 81(c)(1), (3), (4), and (5).

6. **Consent to Removal.** Since he has been fraudulently joined, Woodruff need not consent to this removal.

7. **Relief Requested.** Primerica respectfully requests that the United States District Court for the Eastern District of Texas, Beaumont Division, accept this notice of removal and that it assume jurisdiction of this cause and issue all such further orders and processes as may be necessary to bring before it all parties necessary for the final trial hereof.

Respectfully submitted,

By: /s/ Bill E. Davidoff
Bill E. Davidoff
Texas Bar No. 00790565
bill.davidoff@figdav.com

FIGARI + DAVENPORT, LLP
901 Main Street, Suite 3400
Dallas, Texas 75202
Telephone: 214.939.2000
Facsimile: 214.939.2090

ATTORNEYS FOR DEFENDANT
PRIMERICA LIFE INSURANCE COMPANY

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of September, 2017, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to all parties who have appeared and registered with CM/ECF.

/s/ Bill E. Davidoff
Bill E. Davidoff